



MILPITAS PLANNING COMMISSION STAFF REPORT

October 12, 2016

APPLICATION: **AROMA INDIAN FUSION DINING AND BANQUET HALL, Permit No. P-UP16-0017** - A request for a Conditional Use Permit to allow a Banquet Hall in C2 zone, full alcohol sales for the restaurant and banquet hall, and a request for shared parking in order to allow the use of the available parking spaces based on the parking demand study at 212 Ranch Drive.

RECOMMENDATION: **Staff recommends that the Planning Commission adopt Resolution No. 16-038 approving Conditional Use Permit No. UP16-0017, subject to the attached Conditions of Approval.**

LOCATION:

Address/APN: 212 Ranch Drive (APN: 022-54-012)
Area of City: North of West Calaveras Boulevard (CA237) and West of Nimitz Freeway (I-880)

PEOPLE:

Project Applicant: Upinderjit Ahluwalia
Consultant(s): Norris J. Mitchell, Nor-Cal Restaurant Design
Property/Business Owner: F&M Sorci Land Company Inc.
Project Planner: Bhavani Potharaju, Contract Assistant Planner

LAND USE:

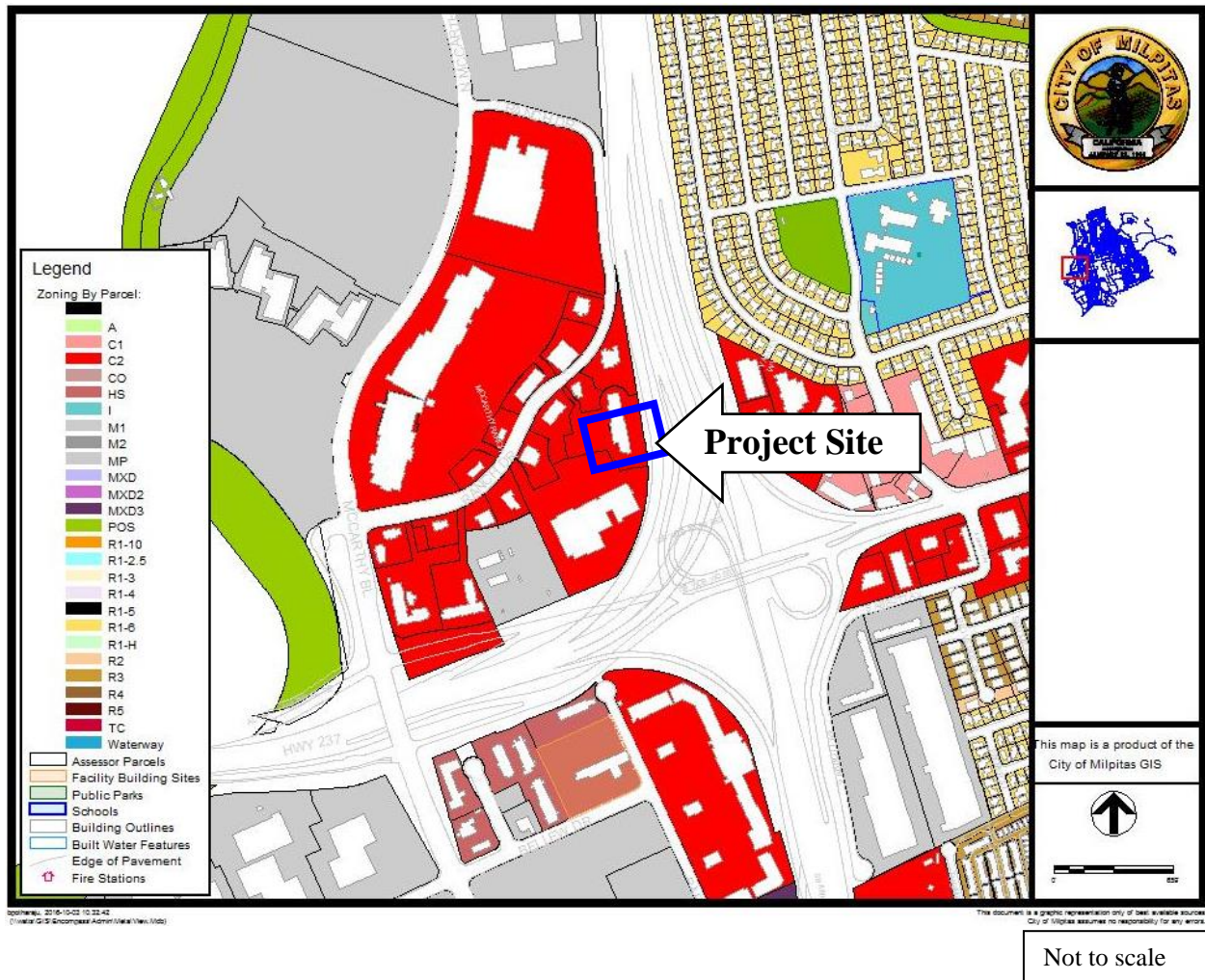
General Plan Designation: General Commercial (GNC)
Zoning District: General Commercial (C2)
Overlay District: None
Specific Plan: None
Site Area: 3 acres

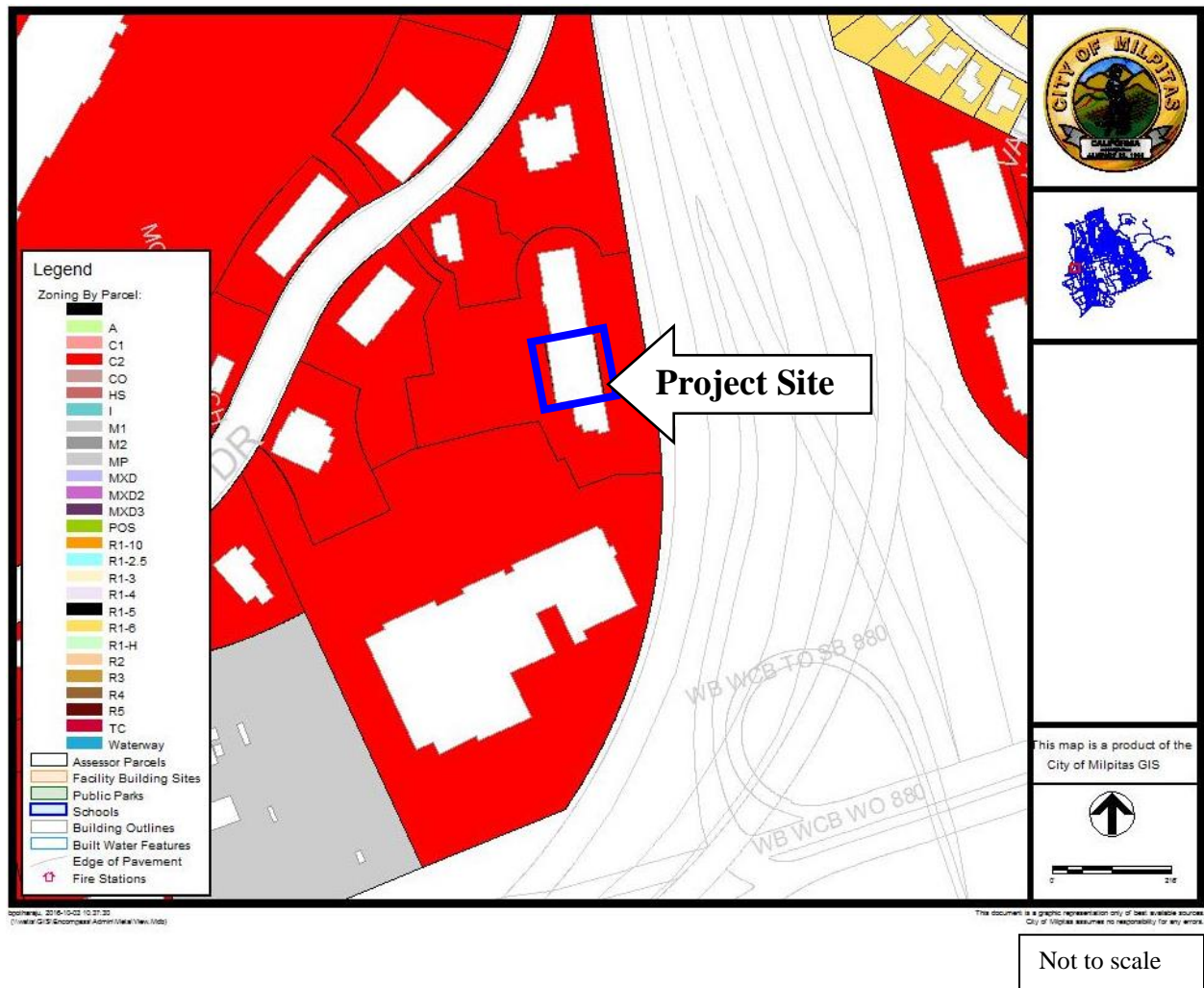
ENVIRONMENTAL: Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

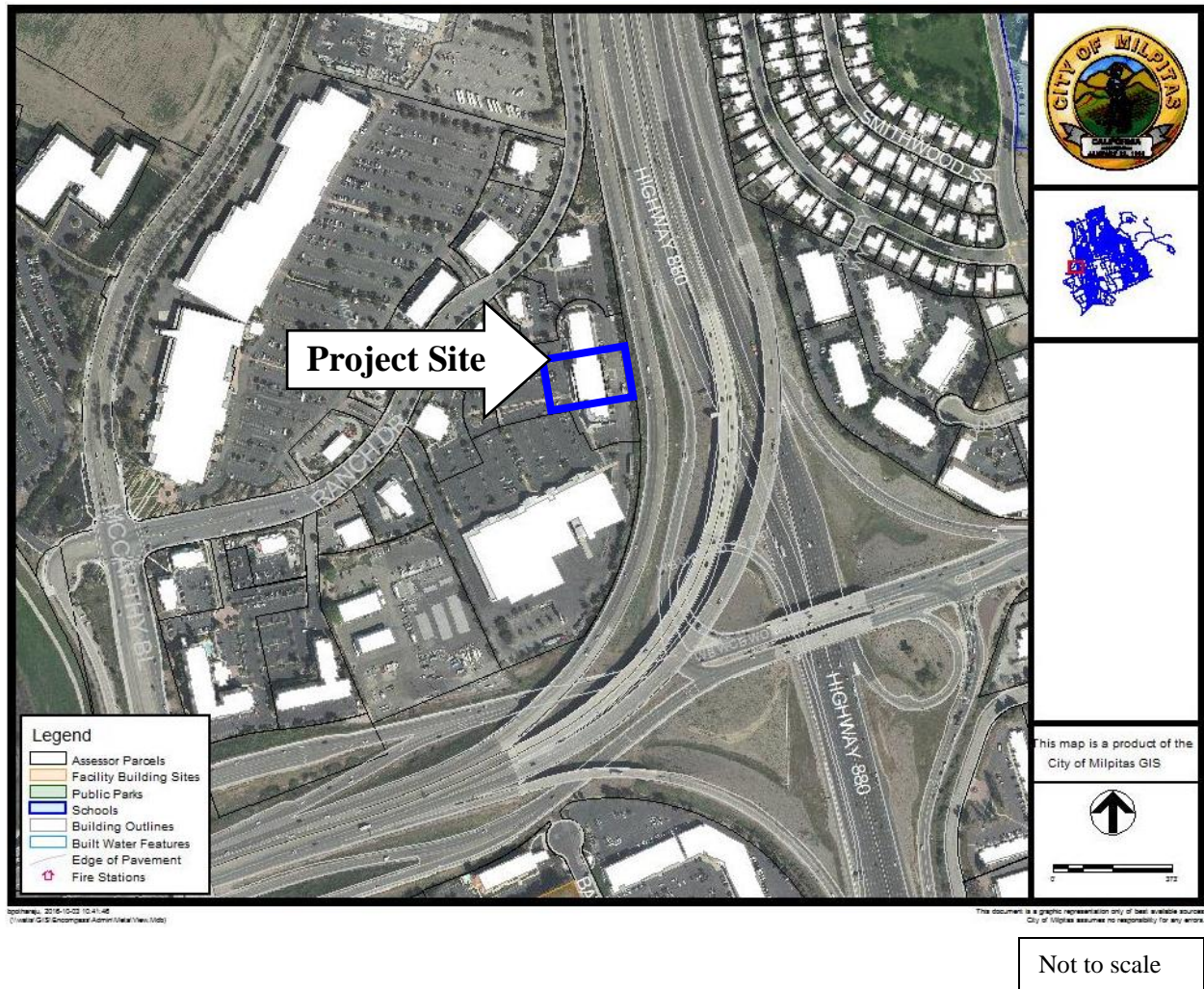
The applicant is requesting a Conditional Use Permit to allow a Banquet Hall in a C2 zone, full alcohol sales for the restaurant and banquet hall, and a request for shared parking in order to allow the use of the available parking spaces based on the parking demand study. The applicant will also be doing tenant improvements to renovate the restaurant, kitchen, and banquet hall. The project is consistent with the General Plan and Zoning Ordinance, and staff recommends that the Planning Commission approve the project subject to the findings and Conditions of Approval.

Map 1 **Zoning Map**





Map 2 Project Site



BACKGROUND

History

The project site is located in the McCarthy Ranch Marketplace, and the proposed restaurant and banquet center would operate within a tenant space previously occupied by Hometown Buffet. On July 8, 2016, the applicant submitted the subject application to allow a Banquet Hall to be located at 212 Ranch Drive and on-site consumption of all types of alcohol at the restaurant and the banquet hall. Additionally, the application also includes a request for shared parking in order to allow the use of the available parking spaces based on a parking demand study.

PROJECT DESCRIPTION

Overview

The project site is situated on a 3 acre site located at 212 Ranch Drive. The project is located in the McCarthy Ranch Market Place and would occupy a tenant space of 10,260 square feet in a multi-tenant commercial building. The previous use, Hometown Buffett, utilized the 10,260 square feet space as well, but the floor plan for Hometown Buffett had approximately 4,050 square feet devoted to dining whereas 6,359 square feet of dining area is proposed for the proposed use. The applicant is requesting a Conditional Use Permit (CUP) to allow a Banquet Hall in the General Commercial (C2) zone, full alcohol sales for the restaurant and banquet hall, and a request for shared parking in order to allow the use of the available parking spaces based on the parking demand study. The applicant will also be doing tenant improvements to renovate the restaurant, kitchen, and banquet hall. The proposed banquet hall along with the restaurant will operate from 11:00 AM to 11:00 PM, Monday through Friday and from 11:00 AM to 1:00 AM on Saturday and Sunday.

Location and Context

The site is surrounded by a restaurant to the north, multi-tenant commercial building to the south and west, and I-880 to the east. The project site is located within the General Commercial (C2) zoning district, in which a restaurant is permitted by right and allows a banquet hall through approval of a Conditional Use Permit. Vicinity and location maps of the subject site location are included on the previous page.

Table 1: Zoning and Land Use Summary

	General Plan	Zone	Uses
Subject Site	General Commercial (GNC)	General Commercial (C2)	Commercial Building
North	General Commercial (GNC)	General Commercial (C2)	Restaurant
South	General Commercial (GNC)	General Commercial (C2)	Commercial Building
East	I-880	I-880	Freeway
West	General Commercial (GNC)	General Commercial (C2)	Commercial Building

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan

The proposed project would be consistent with the General Commercial General Plan Land Use Designation, which is intended to promote a wide range of retail sales, and personal and business services accessed primarily by the automobile. It includes commercial uses in which shopping may be conducted by people walking to several stores as in a center, and may include uses customarily of a single-purpose character served from an adjacently parked automobile. Specifically, the proposed project would be consistent with Policy 2.a-I-3 which encourages economic pursuits which will strengthen and promote development through stability and balance in that the proposed restaurant and banquet center would replace an existing restaurant and would maintain the balance of land uses in the vicinity of the McCarthy Ranch shopping center. The previous restaurant, Hometown Buffet, vacated the space and therefore the addition of a new

sit-down restaurant and banquet center is desirable and it is anticipated will ensure stability of the shopping center with both traditional restaurant hours and with the influx of customers using the banquet center. The proposed use would also be consistent with Policy 2.a-I-5 which directs the City to maintain policies that promote a strong local economy which provides economic opportunities for all Milpitas residents within existing environmental, social, fiscal, and land use constraints in that the proposed restaurant and banquet center is anticipated to provide 40 new jobs to the local economy and due to the additional patrons coming to a new sit down restaurant and banquet center it is anticipated that the shopping center may experience additional patrons.

Zoning Ordinance

The project does not propose any addition of square footage to the building; the applicant will be making interior modifications to an existing tenant space. The setback requirements, floor area ratio (FAR), and landscaping requirements remain the same and are compliant with the zoning standards. Table 2 shown below demonstrates the existing building's conformance with the development standards of the zoning ordinance.

Table 2: Development Standards

	Standards	Existing	Complies
<u>Setbacks</u> (Minimum)			
Front	10 feet	215 feet	Yes
Side Yard Setback (Interior)	10 feet	55 feet on north side and 70 feet on south side	Yes
Rear	10 feet	90 feet	Yes
<u>Floor Area Ratio</u> (Maximum)	0.50	No increase in bldg. sq. ft.	Yes
<u>Landscaping</u>	None	Incorporated with parking spaces	Yes

The nature of the project site remains largely unaltered, and the banquet hall is conditionally permitted in the C2 zone. Moreover, full alcohol sales, as requested by the applicant, may be authorized in this zoning district through the issuance of a CUP, as discussed below. Finally, the 896 parking spaces existing on site would be adequate based on an independent parking demand study prepared for the project. As conditioned, the project is consistent with the Zoning Code.

Access and Circulation

Access to the project site is provided by a driveway located along Ranch Drive that provides two entries and exits. These driveways are shared amongst all the commercial buildings on the project site. The internal driveway connects to a driveway of other multi-tenant commercial buildings located south of the project site



		space (989 sq. ft.)	
Vege House Restaurant	2,008	1 per 39 sq. ft. of dining space (1,106 sq. ft.)	28
Taqueria Los Restaurant	1,200	1 per 39 sq. ft. of dining space (898 sq. ft.)	23
Summer Hills Homes	3,235	1/200 sq. ft.	16
Summer Hills Homes	1,200	1/200 sq. ft.	6
Aroma Indian Fusion Dining and Banquet Hall*	10,260	1 per 39 sq. ft. of dining space (6,359 sq. ft.)	163
Pink & Nail Spa	1,200	1/200 sq. ft.	6
McCarthy Medical	2,457	1/225 sq. ft.	11
Joshi Jayashree	2,350	1/225 sq. ft.	10
Sleep Train	4,450	1/200 sq. ft.	22
On the Border	3,700	1 per 39 sq. ft. of dining space (1,858 sq. ft.)	48
Total Parking Required			937
Total Parking Provided			896
Number of Parking Spaces to be Accommodated			41
* Banquet facilities require the same parking ratio as restaurants, per Table 53.09-1 in Milpitas Municipal Code § XI-10-53.			

Parking Demand Study

The table above indicates that the existing number of parking spaces provided on-site does not meet the minimum requirements based on the uses and due to the increase of seating area more parking spaces would be required for the proposed use. Per Section XI-10-53.11(C) in the Milpitas Municipal Code, parking regulations allow for the shared use of available parking spaces in a mix of commercial uses located on a single site with a Conditional Use Permit approval. According to the Municipal Code, “[t]he minimum number of parking spaces ... where shared parking strategies are proposed shall be determined by a study prepared following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved procedures.” (XI-10-53.11(D).) To satisfy this requirement, a parking demand survey was conducted by Hexagon Transportation Consultants on August 19, 20 and 24, 2016 for the existing uses on the project site. The number of occupied parking spaces were counted every 15 minutes from 11:30 am to 1:15 pm and 6:30 pm to 9:15 pm on a Wednesday, Friday, and Saturday; the survey results showed that the maximum occupancy was 331, 483, and 304 respectively. After factoring in 116 parking spaces for the vacant tenant space on site, there are 286, 134, and 313 spaces available for use on Wednesday, Friday and Saturday respectively. Based on the results of the parking survey staff determined that there are more than adequate parking spaces for the proposed project and the existing uses. Please see the detailed Parking Demand Study in Attachment C.

Although the Demand Study indicates there will be an adequate supply of parking spaces throughout the shopping center parking lot, because parking spaces are not dedicated specifically to the restaurant due to the common parking arrangement, staff believes valet service is necessary to manage the parking more efficiently during banquet events. Specifically, staff believes the valet service will help minimize restaurant patrons from looping throughout the parking lot seeking a space closer to the restaurant. As stated, there will be an abundance of parking but spaces are not guaranteed directly adjacent to the proposed restaurant and banquet center.

As conditioned, the applicant shall be required to provide the following measures:

- *Valet Parking* – The applicant is required to provide valet parking for all banquet events in order to avoid any further traffic congestion during peak operation hours of the project site.

Alcohol sales and service

The applicant proposes to serve alcoholic beverages at the restaurant and banquet hall. Per state and local law, this requires approval from both the State of California Department of Alcoholic Beverage Control (ABC), who has sole authority to issue alcohol licenses, and approval from the City, as Milpitas Municipal Code Table XI-10-5.02-1 requires a conditional use permit to authorize alcoholic beverage sales in the C2 zone.

ABC Licensing

The applicant is requesting that ABC issue a Type 47 (On-Sale General Eating Place) alcohol license, which authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the licensed premises. In order to obtain a Type 47 license, the restaurant must operate and maintain the licensed premises as a bona fide eating place by maintaining suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

The sale of alcohol in the State of California is regulated by the Alcoholic Beverage Control Act (California Business and Profession Code Sections 23000-25762). ABC is generally required to deny an application for a license if its issuance would result in or add to an ‘undue concentration’ of licenses in a particular area, unless a finding of ‘public convenience or necessity’ can be made. (Business & Professions Code Section 23958.) Within the City of Milpitas an ‘undue concentration’ would be an area where:

- (a) the project site is in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the Milpitas Police Department.
- (b) the ratio of on-sale (on site consumption) retail licenses to population in the census tract or census division in which the project site is located exceeds the ratio of on-sale retail licenses to population in Santa Clara County (for on-sale retail licenses).
- (c) the ratio of off-sale (off site consumption) retail licenses to population in the census tract or census division in which the project site is located exceeds the ratio of off-sale retail licenses to population in Santa Clara County (for off-sale retail licenses).

According to ABC, the project site falls within in an area of undue concentration, given that the relevant area is only authorized to host two (2) on-sale permits and one (1) off-sale permit.

Currently, there are twenty eight (28) on-sale permits and (13) off-sale permits in the area. In order for ABC to grant the pending license application, the applicant will have to demonstrate to ABC that public convenience or necessity would be served by its issuance. (Business & Professions Code Section 23958.4(b)(1).)

City Authorization of Alcoholic Beverage Sales

Separate and apart from the ABC licensing process, the City's municipal code requires that full alcohol sales in C2 zones obtain a CUP. (Milpitas Municipal Code Table XI-10-5.02-1.) In order to issue a CUP for this use, the same criteria that apply to all CUPs would be applied here and are analyzed in the 'Findings' section of the attached Resolution. Generally, staff notes that the proposed hours of operations would not cause disruption or the quiet and peaceful enjoyment of the neighborhood. The proposed hours of operation are from 11:00 AM to 11:00 PM, Monday through Friday and from 11:00 AM to 1:00 AM on Saturday and Sunday. Since the surrounding uses are all commercial and the nearest school or residence is across the freeway, staff determined that the proposed on-site consumption of alcohol would not have a detrimental impact on the community.

As conditioned, the applicant shall be required to provide the following measures:

- Responsible Alcohol Training - The operator shall be responsible for ensuring that all employees receive "Responsible Alcoholic Beverage Service" training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request.
- Liter and Graffiti Prevention - Pick up litter and abate graffiti on a daily basis.

FINDINGS

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Staff has found that the proposed project is consistent with the General Plan, Zoning Ordinance, and all required Findings. The findings for approval are discussed in detail in Attachment A (Resolution 16-038).

ENVIRONMENTAL REVIEW

Categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) as the project consists of the minor alteration of existing private structures and features and involves negligible or no expansion of the existing use.

PUBLIC COMMENT/OUTREACH

Staff provided public notice of the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on September 30, 2016. In addition, 186 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

CONCLUSION

In conclusion, the proposed project is consistent with the policies and guiding principles identified in the General Plan and satisfies the requirements specified in the Municipal Code. The proposed use will contribute towards City's economic development goals and provide necessary public infrastructure improvements.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing;
2. Adopt Resolution 16-038 approving Conditional Use Permit No. UP16-0017 to allow a Banquet Hall in C2 zone, full alcohol sales for the restaurant and banquet hall, and a request for shared parking in order to allow the use of the available parking spaces based on the parking demand study, subject to the findings and Conditions of Approval.

ATTACHMENTS

- A: Resolution 16-038
- B: Project Plans
- C: Parking Demand Study